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Res Gestae

PUBLISHED WEEKLY BY
THE LAWYERS CLUB OF THE UNIVERSITY OF MICHIGAN LAW SCHOOL

Roger Marce, Editor

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February 19, 1965

NO. 4

UAW-CIO COUNSEL SPEAKS AT LAWYERS CLUB: Last evening, Mr. Stephen Schlossberg, counsel for the UAW-CIO spoke to Club members on current developments in labor law. Explaining that he regarded this as one of the most challenging and dynamic areas of law today, he began by citing two recent cases which he felt pointed this out. The first was Wylie v. Livingston which considered the question of whether or not a union contract negotiated with a corporation involved in a merger was binding on the successor corporation--or more narrowly, whether the arbitration clause was binding as to grievances arising prior to merger. The Supreme Court held that the successor corporation had to arbitrate. This case is now regarded as authority for the proposition that a union contract is not abated by this type of termination of a corporation's entity.

The second case grew out of a G.M. rule that workers couldn't have union literature or other papers on their person, on company property. While G.M. did not attempt to interfere with union organization as such, this rule seriously impeded such organizing activities since even union membership cards and applications came within its scope. Schlossberg concluded that while the first case points out the heretofore unthought of new developments in labor law, the latter points out the continuing role of the N.L.R.B. in recurring problem areas. Labor law is still an emerging field.

He also noted that, notwithstanding Erie RR. v. Tomkins, the courts have interpreted labor legislation as providing a basis for a development of a Federal common law, in this area. On the other hand, recent decisions have also raised questions about the extent to which labor legislation has pre-empted this field. In one recent case, a discharged employee was allowed to sue for severance pay on a contractual theory. While it was believed that this was pre-empted and should have been taken to the N.L.R.B., it was held that the plaintiff could bypass the board since this was a contractual and not a quasi-tort claim.

While the Supreme Court began some time ago to rule against discrimination against a member or group of members by a union, there have been a number of recent developments in this aspect of labor law because of the effects of the civil rights decisions and because of the Civil Rights Act of 1964. This "spill-over" has caused some concern on the part of both management and labor since neither side wants to see their orderly and well-established interrelations interfered with.

Unions and management have proven to be the best institutions to deal with human or economic problems in the shop. While nobody wants to see the worker become a mere cog in a machine, the interests of the union, i.e. its overall membership, must also be served. Schlossberg pointed out that a union such as his gets thousands of grievances every year. From its expert position, the union knows how best to handle each one. It knows when to fight, when to compromise and when a grievance should be tactfully disposed of. If not left with a maximum of discretion to do as it sees proper, the long range interests of the union will be damaged. However, its ability to serve the collective interests of its membership has been challenged in cases where an individual member has sought redress on his own. Schlossberg argued that this should be done only when the union has acted in bad faith.

Mr. Schlossberg followed with a discussion of some of the union problems which had been called to the public's attention. He noted a problem that his union is confronted with because of a dispute of which of two unions should have control of certain jobs at G.M. While the U.A.W. successfully resorted to binding bilateral arbitration, the competing union was similarly successful in its plea before the N.L.R.B. Consequently, G.M. is caught in the middle. He stated that the recent G.E. case did not, in his mind, bar companies from starting contract negotiations by stating their best offer and sticking to it. That case was decided, he felt, on the basis of the entire pattern of G.E.'s method of negotiating its contracts.

FROM THE BOARD OF DIRECTORS: Elections for the officers and directors of the Lawyers Club will be held on Tuesday, March 9. Nomination for a place on the ballot is by petition. Petition forms will be available beginning on Monday (Feb. 22) at both the Hutchins Hall office and the office of the Lawyers Club. These petitions must contain signatures of at least 10 law students and must be returned by Tuesday, March 2.

According to the procedure set up in the Club's constitution, a nominating committee consisting of the student President of the Club, the Secretary of the Board of Governors, and the Assistant Dean of the Law School shall review each petition. They have the power to disapprove any petition for cause. Although this is a seldom used provision, it has been generally understood that a student with a 2.00 average or less for his first year, with no improvement during his third semester may be asked not to run.

The Board of Governors, on recommendation from the Board of Directors, has introduced certain changes in the election procedure. The principal modification guarantees the election of a minimum of at least three first year students to the Board. This has been done by establishing the rule that the two freshmen candidates with the highest number of votes shall be elected to the Board. In addition, the two year term on the Board of Governors is, of course, filled by a freshman.

The other pertinent change in the election process is the requirement that the President be a Club resident. While this blatantly discriminates against married students, it is felt that the demands of the job require that the President be accessible and hence be a resident. There is also a long standing requirement that at least four of the seven members of the Board be residents. The other offices have no residence requirements.

The President, Vice-president, Secretary, Treasurer and Student Member of the Board of Governors are elected by a plurality. Unsuccessful candidates for these offices are then deemed to be candidates for one of the seven seats on the Board of Directors, along with those specifically filing a petition for one of these seven seats. As noted above, two of these seats go to the two freshmen receiving the largest number of votes. The other five seats go to the top five of the remaining candidates.

FRESHMAN BRIEFS: In this time of pending international crises, wise men deliberate, loving women weep and F. Ulysses Schmedlapp has published his autobiography. Volume III of this stirring saga of military training and tactics is entitled Freedom Fighter Freddie: or How I Survived ROTC Summer Camp.

Chapter 2 relates all the rigors of basic training: "I landed in camp with \$75.00," writes Fred. "In ten minutes I was broke. I never saw so many two's and twelve's on a pair of dice. No matter what I did I went broke. Even in cards something went wrong. One time I had five aces and I was afraid to bet. A good thing I didn't though, because the guy next to me had six queens! Finally, I said, 'There's something crooked about this poker game.' 'Poker nothing,' the fellas said. 'We're playing pinochle.'"

On page 387 our hero recalls the rigors of water travel: "Sea training was more fun than a stubbed toe in the dark. We were on the boat for 2 days and I was seasick all the way. Nothing going down and everything coming up. I was always leaning over the rail. Then one day, in the middle of one of my best leans, the captain came over to me and said, 'Is the Brigadier up yet?' It took all I had to look up for a second and say, 'If I swallowed it, it's up.'"

Fred then continues with his account of the rigors of field maneuvers between "A" Company's Beiges and "B" Company's Khakis: "Well, we finally landed on the beachhead they were using for these training maneuvers and were immediately sent to the trenches. After three hours all the cannons started to roar and the shells started to fall. I was shaking all over with patriotism, because somebody had forgot to bring the fake ammunition. I tried to hide behind a tree, but there weren't enough trees for the officers. Five o'clock came and we went over the top. 10,000 Khakis came at us and they all looked at us like we were responsible for these maneuvers. The captain yelled 'Fire at will!' But I didn't know their names. Well, I guess the fella next to me thought I was Will, because in the excitement his gun went off and hit me. On the way to the hospital I asked the medic where they were taking me. He said, 'You're going to the morgue.' 'Morgue?' I yelled. 'There must be some mistake. I'm not dead.' 'Lie down,' he shouted. 'Do you want to make a fool out of the doctor?'"

Today, Fred's Purple Heart is proudly displayed in the lobby of Martha Cook, which acquired it as ransom for poor Fred when he "lost his way" after last semester's Exchange Dinner. What a sacrifice! What a soldier!

- Steve Petix and Art Dulemba

LIBEL AND SLANDER: Our attention has again been called to the Pride of Dunkin Heinz (Dishwashers' Guild, '39), the cafeteria. The matter before us is not the food this time. Our attention is instead called to Mrs. Langer's apparently arbitrary dismissal of a student employee for the heinous crime of sporting a beard. We are informed that the student began growing his beard sometime last fall. Suddenly, a short while ago, Mrs. Langer ordered him to remove it or go. Since his beard is not yet long enough to fall into the soup (notwithstanding the suspicions of certain persons eating said soup), and since it does not otherwise impair his efficiency or cleanliness on the job, and since there is apparently no official University policy on the matter, this student employee failed to heed Mrs. Langer's demand and went on about the work that he had been doing for over a year and a half. This week, Mrs. Langer struck again; although she apparently claims that she only sent the gentleman back to his room to shave. Admittedly, this act on her part seems small when compared to such instances as Henry Ford firing employees for smoking, even in the privacy of their own homes. However, that was over 50 years ago. Let's hope that this incident is not an indication of the manner in which the Lawyers Club is now being run. Let's also hope that Mrs. Langer considers the matter on its merits and reinstates this student.

- H.V. Baxendale.

EDITORS WASTEBASKET: Prof. Choate was a panel member in Program of Michigan Patent Law Association on "Evidence in Patent Cases." He also spoke to the Michigan chapter of Eta Kappa Nu on "Patents and the engineer." . . . Prof. Estep authored a book review of "Catastrophic Accidents in Government Programs," in the Stanford Law Review. . . . Prof. Gray spoke on "The Role of Contracts in the Chinese Economy" in a program on Civil Law in the People's Republic of China, for the New York City Bar's Committee on Foreign Law and the Asia Society. . . . Prof. Kimball is the author of an article appearing in a German publication entitled "Isolationism vs. Continuity in the American Reinsurance Market--A Reply to Mr. Jones."

MISCELLANEOUS: Mr. John Feikens, Co-Chairman of the Michigan Civil Rights Commission, will be the guest of the Law Club on Tuesday, Feb. 23. He is a "pioneer" co-chairman of the Commission which was formed under the new Michigan Constitution of 1963. The Commission is believed to be the first of its kind and is clothed with extremely broad powers in order to enable it to secure its goals. Mr. Feikens contends that one of the civil rights to be secured by the Commission, in performance of its duties, is the right to buy real estate freely. It is on this topic of "Rights in Housing" that he will speak at 6:20, in the lounge. . . . The Law Wives are sponsoring the "Constitution Caper," a dance to be held on Saturday, Feb. 27, 9:30-12:30 at the Knights of Columbus Hall. Music by the Ray Lewis band plus an open bar and door prizes. The cost is \$1.50 for dues paying members and \$2.00 for others.

AT THE FLICKS:

Campus: "The Suitor"

Michigan: "Thirty-six Hours"

State: "Goldfinger"

Cinema Guild: Fri.- "Ivan the Terrible," part II;
Sat.- "The Great Dictator"

QUADSVILLE QUOTES:

It is our true policy to steer clear of permanent alliances with any portion of the foreign world.

- Washington

Volumes might be written on the impiety of the pious.

- Herbert Spencer